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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/877,188	06/11/2001	Berthold Fecteau	P 257000 RP-00063-US4	2391
909	7590	04/03/2006	EXAMINER	
PILLSBURY WINTHROP SHAW PITTMAN, LLP			LUBY, MATTHEW D	
P.O. BOX 10500			ART UNIT	
MCLEAN, VA 22102			PAPER NUMBER	

3611

DATE MAILED: 04/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/877,188

Applicant(s)

PECTEAU ET AL.

Examiner

Matt Luby

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on the BPAI decision of 1/31/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-130 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-51, 67-103, 109, 110 and 112-116 is/are allowed.
- 6) ☒ Claim(s) 52-64, 104 and 118 is/are rejected.
- 7) ☒ Claim(s) 65, 66, 105-108, 111, 117 and 119-130 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Action following Remand

Prosecution as to claims 52-64, 104 and 118 is hereby reopened in response to the BPAI remand and suggestion of consideration of new rejections for independent claims 52, 104 and 118. Prosecution as to claims 1, 26, 67, 77, 84, 92, 100 and their dependent claims is closed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 118 is rejected under 35 U.S.C. 102(b) as being anticipated by Christensen et al.

Christensen et al. disclose all of the claimed limitations including a snowmobile having a steering position (the position midway between handlebars 10) disposed forward of the forward-most drive axle (Figure 3 shows this configuration; in particular the Applicant's annotation of Figure 3 on page 26 of their previously submitted Appeal Brief is evidence of this).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 52-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christensen et al. in view of AAPA.

Christensen et al. disclose all of the claimed limitations including a snowmobile having a steering position (the position midway between handlebars 10) disposed forward of the forward-most drive axle (Figure 3 shows this configuration; in particular the Applicant's annotation of Figure 3 on page 26 of their previously submitted Appeal Brief is evidence of this). Christensen et al. do not specifically disclose that the seat back end extends behind the rearward most portion of the frame. AAPA shows this in Figure 1 (as suggested by the BPAI on page 10 of the decision) in order to successfully and comfortably accommodate a rear-most rider who is larger than average (as shown in Figure 1 and as suggested by the BPAI on page 11 of the decision). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide that the seat back end extends behind the rearward most portion of the frame on the Christensen et al. snowmobile, as taught by AAPA, in order to successfully and comfortably accommodate a rear-most rider who is larger than average.

Regarding claims 53-64, Figure 8 states that for a conventional snowmobile the back of frame extends behind the back of the seat by 50 mm ("Long" column, Row M). The BPAI did not agree with this because they stated (on page 10, 3rd full paragraph of the decision) that Figure 1 shows the back of the seat extending behind the rear of the frame, not the other way around (as alleged by Applicant's). The fact that multiple "preferred" sets of this distance are claimed throughout 53-64 is indicative that the Applicant's do not consider this distance to be critical. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have the back of the seat extend behind the rear of the frame by about 60, 230 or 290mm, in order to accommodate various sizes of rear passengers.

Claim 104 is rejected under 35 U.S.C. 103(a) as being unpatentable over Christensen et al. in view of AAPA.

Christensen et al. disclose all of the claimed limitations including a snowmobile having a steering position (the position midway between handlebars 10) disposed forward of the forward-most drive axle (Figure 3 shows this configuration; in particular the Applicant's annotation of Figure 3 on page 26 of their previously submitted Appeal Brief is evidence of this). Christensen et al. do not specifically disclose that the frame is between about 1493 and 1913 mm long. AAPA shows this in Figures 1 and 8 (as suggested by the BPAI on pages 9-10 of the decision) in order to provide a frame length long enough to provide seating for occupants of larger than average sizes. It would have been obvious to one of ordinary skill in the art at the time of the invention to

provide the conventional snowmobile of Christensen et al. with a conventional short frame length of the type disclosed in Figure 8 of AAPA in order to provide a frame length long enough to provide seating for occupants of larger than average sizes.

Allowable Subject Matter

Claims 1-51 and 67-103, 109, 110 and 112-116 are allowed. The rejection of the last Office Action was overturned by the BPAI in the decision.

Claims 65, 66, 105-108, 111, 117 and 119-130 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matt Luby whose telephone number is (571) 272-6648. The examiner can normally be reached on Monday-Friday, 9:30 a.m. to 6:00 p.m..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6612. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Matt Luby
Examiner
Art Unit 3611

ML
March 21, 2006


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